

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|------------------------------|---|------------------------------|
| ROBERT MARTIN |) | CASE NO. 3:10CV1398 |
| |) | |
| Petitioner |) | |
| |) | JUDGE JAMES G. CARR |
| v. |) | |
| |) | |
| UNITED STATES DISTRICT COURT |) | <u>MEMORANDUM OF OPINION</u> |
| FOR THE SOUTHERN DISTRICT OF |) | <u>AND ORDER</u> |
| OHIO, EASTERN DIVISION |) | |
| |) | |
| Respondent. |) | |

Petitioner *pro se* Robert Martin filed this Petition for Writ of Mandamus pursuant to 28 U.S.C. § 1361. He seeks an order requiring the United States District Court for the Southern District of Ohio, Eastern Division to allow him to file pleadings and motions. Further, he makes an unclear statement about “deliberate indifferent medical harm ... and the illicit taking for medical copy of \$2 from a prisoner’s account.” Comp. pg. 4.

A district court is expressly authorized to dismiss any civil action filed by a prisoner seeking relief from a governmental entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A; *Siller v. Dean*, 2000 WL 145167 * 2 (6th Cir. Feb. 1, 2000); *see Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974) (citing numerous Supreme Court cases for the proposition that attenuated or unsubstantial claims divest the district court of jurisdiction); *In re Bendectin Litig.*, 857 F.2d 290, 300 (6th Cir. 1988) (recognizing that federal question jurisdiction is divested by unsubstantial claims).

28 U.S.C. § 1361 provides that “[t]he district courts shall have original jurisdiction of any

action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” A district court is not an employee or agency of the United States. Therefore, the United States District Court for the Southern District of Ohio, Eastern Division is not a proper party requiring dismissal of this case.

Accordingly, this action is dismissed pursuant to 28 U.S.C. § 1915A. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Date: 8/30/2010

s/ JUDGE JAMES G. CARR
UNITED STATES DISTRICT JUDGE